



# OLR RESEARCH REPORT

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## **MENTAL HEALTH REPORTING IN SCHOOLS**

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You asked whether Connecticut law designates mandated reporters, specifically within school systems, to report students with mental health issues who pose a danger of harm to self or others.

### **SUMMARY**

There is no law in Connecticut designating mandated reporters within school systems, or elsewhere, to report students with suspected mental illness and related violent tendencies. However, Connecticut statutes have removed confidentiality barriers and courts have imposed civil liabilities in relation to patient communications. In effect, this encourages mental health professionals to report threats of harm.

For example, some Connecticut statutes allow certain mental health professionals to report patients who threaten harm by disclosing otherwise confidential patient information, if they so choose. These laws are outlined below, excerpted from OLR Report [2013-R-0089](#).

Additionally, Connecticut courts have found that mental health professionals have a duty to warn an identifiable victim of an imminent physical threat. Mental health professionals may be held liable in civil court if they fail to warn an identifiable victim of an imminent physical threat.

## CONNECTICUT STATUTES: DISCLOSURE OF CONFIDENTIAL COMMUNICATIONS

Communications between mental health professionals and patients are generally confidential and cannot be disclosed to a third party without the patient's consent. The definition of “communications” varies somewhat by profession. For example, it is broader for psychiatrists and social workers than for psychologists.

Mental health professionals may disclose privileged communications without the patient's consent in certain circumstances specified by the following statutes included in Table 1 below.

**Table 1: Permitted Patient Information Disclosure Circumstances**

Mental Health Professional	Disclosure Circumstance	Statute
Psychologists	<ul style="list-style-type: none"><li>when they believe “in good faith that there is risk of imminent personal injury to the person or to other individuals or risk of imminent injury to the property of other individuals”</li></ul>	CGS § <a href="#">52-146c(c)(3)</a>
Psychiatrists	<ul style="list-style-type: none"><li>when they determine “that there is substantial risk of imminent physical injury by the patient to himself or others”</li></ul>	CGS § <a href="#">52-146f(2)</a>
Marital / family therapists	<ul style="list-style-type: none"><li>when they believe “in good faith that the failure to disclose such communications presents a clear and present danger to the health and safety of any individual”</li></ul>	CGS § <a href="#">52-146p(c)(2)</a>
Social workers	<ul style="list-style-type: none"><li>when they determine “that there is a substantial risk of imminent physical injury by the person to himself or others”</li></ul>	CGS § <a href="#">52-146q(c)(2)</a>
Licensed professional counselors	<ul style="list-style-type: none"><li>when they believe “in good faith that the failure to disclose such communication presents a clear and present danger to the health or safety of any individual,” or</li></ul>	CGS § <a href="#">52-146s(c)(4)</a>
	<ul style="list-style-type: none"><li>when they believe “in good faith that there is risk of imminent personal injury to the person or to other individuals or risk of imminent injury to the property of other individuals”</li></ul>	CGS § <a href="#">52-146s(c)(5)</a>

## CONNECTICUT COURTS: DUTY TO WARN

A series of Connecticut state and federal court rulings further encourage mental health professionals to report threats of harm. Courts have recognized that mental health professionals have a duty to warn, which encourages reporting in order to avoid civil lawsuits.

Mental health professionals may be held civilly liable under common law if they fail to warn an identifiable victim of an imminent physical threat. This common law duty to warn was first articulated in a 1976 California Supreme Court case, *Tarasoff v. Regents* (17 Cal. 3d 425). *Tarasoff* held that therapists have an obligation to warn potential victims when they become aware of serious danger posed by their patients.

The case arose after a man named Poddar told his psychologist of his intention to kill an unnamed but readily identifiable woman, Tatiana Tarasoff. The psychologist wished to have Poddar committed, but his supervisor disagreed. No one warned Tatiana or her parents of her peril, and Poddar murdered her. The California Supreme Court held that when:

a therapist determines, or pursuant to the standards of his profession should determine, that his patient presents a serious danger of violence to another, he incurs an obligation to use reasonable care to protect the intended victim against such danger. The discharge of this duty may require the therapist to take one or more of various steps, depending upon the nature of the case. Thus it may call for him to warn the intended victim or others likely to apprise the victim of the danger, to notify the police, or to take whatever other steps are reasonably necessary under the circumstances (*Tarasoff* p. 431).

Although Connecticut's Supreme Court has declined to find a violation of the duty to warn in the factual situations presented to it to date, Connecticut courts have likewise held that such a duty exists, as articulated in *Tarasoff*. In *Kaminski v. Fairfield* (216 Conn. 29, 37 1990)) the Supreme Court said that *Tarasoff* "is distinguishable [from this case] both because the plaintiffs did not have a professional relationship with [the perpetrator]...and because the defendant was not a specifically identifiable victim."

A subsequent district court case, *Fraser v. United States* (30 F.3d 18 (1994)), applied Connecticut common law when addressing the duty to warn. In *Fraser*, a mentally ill outpatient at the West Haven Veteran's Administration Medical Center, John Doe, stabbed his employer, Hector Fraser, 37 times. Fraser died the next day from the resulting wounds. Agnes Fraser, as executrix of the estate, sued the federal government, alleging, among other things, that the medical center failed to warn others of Doe's violent propensity. The district court applied Connecticut common law and held that the medical center owed no duty to warn Fraser about Doe.

Later Connecticut cases have interpreted *Fraser* as acknowledging a duty to warn under particular factual circumstances. In a case interpreting *Fraser*, the federal district court of Connecticut held that a “psychiatrist has a duty to speak where harm to identifiable victims is a foreseeable consequence of his silence” (*Garamella v. New York Medical College*, 23 F. Supp. 2d 167, 175 (D. Conn. 1998)). Similarly, in *Jacoby v. Brinkerhoff* (250 Conn. 86, 96 (1999)), the Connecticut Supreme Court held that under *Fraser* a psychotherapist has the duty to warn of possible violence by a patient only if there is “an imminent risk of serious personal injury to identifiable victims.” The court stressed that the threat must be of physical violence, not damage to property or to the plaintiff’s marriage.

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